

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 ARTICLE 1. FINDINGS

5 Section 101. Findings. The General Assembly finds as  
6 follows:

7 (1) The increasing cost of medical liability insurance  
8 results in increased financial burdens on physicians and  
9 hospitals.

10 (2) The increasing cost of medical liability insurance  
11 in Illinois is believed to have contributed to the  
12 reduction of the availability of medical care in portions  
13 of the State and is believed to have discouraged some  
14 medical students from choosing Illinois as the place they  
15 will receive their medical education and practice  
16 medicine.

17 (3) The public would benefit from making the services  
18 of hospitals and physicians more available.

19 (4) This health care crisis, which endangers the public  
20 health, safety, and welfare of the citizens of Illinois,  
21 requires significant reforms to the civil justice system  
22 currently endangering health care for citizens of  
23 Illinois. Limiting non-economic damages is one of these  
24 significant reforms designed to benefit the people of the  
25 State of Illinois. An increasing number of citizens or  
26 municipalities are enacting ordinances that limit damages  
27 and help maintain the health care delivery system in  
28 Illinois and protect the health, safety, and welfare of the  
29 people of Illinois.

30 (5) In order to preserve the public health, safety, and  
31 welfare of the people of Illinois, the current medical  
32 malpractice situation requires reforms that enhance the

1 State's oversight of physicians and ability to discipline  
2 physicians, that increase the State's oversight of medical  
3 liability insurance carriers, that reduce the number of  
4 nonmeritorious healing art malpractice actions, that limit  
5 non-economic damages in healing art malpractice actions,  
6 that encourage physicians to provide voluntary services at  
7 free medical clinics, that encourage physicians and  
8 hospitals to continue providing health care services in  
9 Illinois, and that encourage physicians to practice in  
10 medical care shortage areas.

11 ARTICLE 3. AMENDATORY PROVISIONS

12 Section 310. The Illinois Insurance Code is amended by  
13 changing Sections 155.18, 155.19, and 1204 and by adding  
14 Section 155.18a as follows:

15 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

16 Sec. 155.18. (a) This Section shall apply to insurance on  
17 risks based upon negligence by a physician, hospital or other  
18 health care provider, referred to herein as medical liability  
19 insurance. This Section shall not apply to contracts of  
20 reinsurance, nor to any farm, county, district or township  
21 mutual insurance company transacting business under an Act  
22 entitled "An Act relating to local mutual district, county and  
23 township insurance companies", approved March 13, 1936, as now  
24 or hereafter amended, nor to any such company operating under a  
25 special charter.

26 (b) The following standards shall apply to the making and  
27 use of rates pertaining to all classes of medical liability  
28 insurance:

29 (1) Rates shall not be excessive or inadequate, ~~as~~  
30 ~~herein defined,~~ nor shall they be unfairly discriminatory.  
31 ~~No rate shall be held to be excessive unless such rate is~~  
32 ~~unreasonably high for the insurance provided, and a~~  
33 ~~reasonable degree of competition does not exist in the area~~

1 ~~with respect to the classification to which such rate is~~  
2 ~~applicable.~~

3 ~~No rate shall be held inadequate unless it is~~  
4 ~~unreasonably low for the insurance provided and continued~~  
5 ~~use of it would endanger solvency of the company.~~

6 (2) Consideration shall be given, to the extent  
7 applicable, to past and prospective loss experience within  
8 and outside this State, to a reasonable margin for  
9 underwriting profit and contingencies, to past and  
10 prospective expenses both countrywide and those especially  
11 applicable to this State, and to all other factors,  
12 including judgment factors, deemed relevant within and  
13 outside this State.

14 Consideration may also be given in the making and use  
15 of rates to dividends, savings or unabsorbed premium  
16 deposits allowed or returned by companies to their  
17 policyholders, members or subscribers.

18 (3) The systems of expense provisions included in the  
19 rates for use by any company or group of companies may  
20 differ from those of other companies or groups of companies  
21 to reflect the operating methods of any such company or  
22 group with respect to any kind of insurance, or with  
23 respect to any subdivision or combination thereof.

24 (4) Risks may be grouped by classifications for the  
25 establishment of rates and minimum premiums.  
26 Classification rates may be modified to produce rates for  
27 individual risks in accordance with rating plans which  
28 establish standards for measuring variations in hazards or  
29 expense provisions, or both. Such standards may measure any  
30 difference among risks that have a probable effect upon  
31 losses or expenses. Such classifications or modifications  
32 of classifications of risks may be established based upon  
33 size, expense, management, individual experience, location  
34 or dispersion of hazard, or any other reasonable  
35 considerations and shall apply to all risks under the same  
36 or substantially the same circumstances or conditions. The

1 rate for an established classification should be related  
2 generally to the anticipated loss and expense factors of  
3 the class.

4 (c) (1) Every company writing medical liability insurance  
5 shall file with the Secretary of Financial and Professional  
6 Regulation ~~Director of Insurance~~ the rates and rating schedules  
7 it uses for medical liability insurance. A rate shall go into  
8 effect upon filing, except as otherwise provided in this  
9 Section.

10 (2) If (i) 1% of a company's insureds within a specialty or  
11 25 of the company's insureds (whichever is greater) request a  
12 public hearing, (ii) the Secretary at his or her discretion  
13 decides to convene a public hearing, or (iii) the percentage  
14 increase in a company's rate is greater than 6%, then the  
15 Secretary shall convene a public hearing in accordance with  
16 this paragraph (2). The Secretary shall notify the public of  
17 any application by an insurer for a rate increase to which this  
18 paragraph (2) applies. A public hearing under this paragraph  
19 (2) must be concluded within 90 days after the request,  
20 decision, or increase that gave rise to the hearing. The  
21 Secretary may, by order, adjust a rate or take any other  
22 appropriate action at the conclusion of the hearing.

23 (3) A rate ~~(1) This~~ filing shall occur upon a company's  
24 commencement of medical liability insurance business in this  
25 State ~~at least annually~~ and thereafter as often as the rates  
26 are changed or amended.

27 (4) ~~(2)~~ For the purposes of this Section, any change in  
28 premium to the company's insureds as a result of a change in  
29 the company's base rates or a change in its increased limits  
30 factors shall constitute a change in rates and shall require a  
31 filing with the Secretary ~~Director~~.

32 (5) ~~(3)~~ It shall be certified in such filing by an officer  
33 of the company and a qualified actuary that the company's rates  
34 are based on sound actuarial principles and are not  
35 inconsistent with the company's experience. The Secretary may  
36 request any additional statistical data and other pertinent

1 information necessary to determine the manner the company used  
2 to set the filed rates and the reasonableness of those rates.  
3 This data and information shall be made available, on a  
4 company-by-company basis, to the general public.

5 (d) If after a public hearing the Secretary ~~Director~~ finds:

6 (1) that any rate, rating plan or rating system  
7 violates the provisions of this Section applicable to it,  
8 he shall ~~may~~ issue an order to the company which has been  
9 the subject of the hearing specifying in what respects such  
10 violation exists and, in that order, may adjust the rate  
11 ~~stating when, within a reasonable period of time, the~~  
12 ~~further use of such rate or rating system by such company~~  
13 ~~in contracts of insurance made thereafter shall be~~  
14 ~~prohibited;~~

15 (2) that the violation of any of the provisions of this  
16 Section ~~applicable to it~~ by any company which has been the  
17 subject of the hearing was wilful or that any company has  
18 repeatedly violated any provision of this Section, he may  
19 take either or both of the following actions:

20 (A) Suspend ~~suspend~~ or revoke, in whole or in part,  
21 the certificate of authority of such company with  
22 respect to the class of insurance which has been the  
23 subject of the hearing.

24 (B) Impose a penalty of up to \$1,000 against the  
25 company for each violation. Each day during which a  
26 violation occurs constitutes a separate violation.

27 The burden is on the company to justify the rate or  
28 proposed rate at the public hearing.

29 (e) Every company writing medical liability insurance in  
30 this State shall offer to each of its medical liability  
31 insureds the option to make premium payments in quarterly  
32 installments as prescribed by and filed with the Secretary.  
33 This offer shall be included in the initial offer or in the  
34 first policy renewal occurring after the effective date of this  
35 amendatory Act of the 94th General Assembly, but no earlier  
36 than January 1, 2006.

1       (f) Every company writing medical liability insurance is  
2 encouraged, but not required, to offer the opportunity for  
3 participation in a plan offering deductibles to its medical  
4 liability insureds. Any plan to offer deductibles shall be  
5 filed with the Department.

6       (g) Every company writing medical liability insurance is  
7 encouraged, but not required, to offer their medical liability  
8 insureds a plan providing premium discounts for participation  
9 in risk management activities. Any such plan shall be reported  
10 to the Department.

11       (h) A company writing medical liability insurance in  
12 Illinois must give 180 days' notice before the company  
13 discontinues the writing of medical liability insurance in  
14 Illinois.

15       (Source: P.A. 79-1434.)

16       (215 ILCS 5/155.18a new)

17       Sec. 155.18a. Professional Liability Insurance Resource  
18 Center. The Secretary of Financial and Professional Regulation  
19 shall establish a Professional Liability Insurance Resource  
20 Center on the Department's Internet website containing the  
21 name, telephone number, and base rates of each licensed company  
22 providing medical liability insurance and the name, address,  
23 and telephone number of each producer who sells medical  
24 liability insurance and the name of each licensed company for  
25 which the producer sells medical liability insurance. Each  
26 company and producer shall submit the information to the  
27 Department on or before September 30 of each year in order to  
28 be listed on the website. Hyperlinks to company websites shall  
29 be included, if available. The publication of the information  
30 on the Department's website shall commence on January 1, 2006.  
31 The Department shall update the information on the Professional  
32 Liability Insurance Resource Center at least annually.

33       (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

34       Sec. 155.19. All claims filed after December 31, 1976 with

1 any insurer and all suits filed after December 31, 1976 in any  
2 court in this State, alleging liability on the part of any  
3 physician, hospital or other health care provider for medically  
4 related injuries, shall be reported to the Secretary of  
5 Financial and Professional Regulation ~~Director of Insurance~~ in  
6 such form and under such terms and conditions as may be  
7 prescribed by the Secretary ~~Director~~. In addition, and  
8 notwithstanding any other provision of law to the contrary, any  
9 insurer, stop loss insurer, captive insurer, risk retention  
10 group, county risk retention trust, religious or charitable  
11 risk pooling trust, surplus line insurer, or other entity  
12 authorized or permitted by law to provide medical liability  
13 insurance in this State shall report to the Secretary, in such  
14 form and under such terms and conditions as may be prescribed  
15 by the Secretary, all claims filed after December 31, 2005 and  
16 all suits filed after December 31, 2005 in any court in this  
17 State alleging liability on the part of any physician,  
18 hospital, or health care provider for medically related  
19 injuries. Each clerk of the circuit court shall provide to the  
20 Secretary such information as the Secretary may deem necessary  
21 to verify the accuracy and completeness of reports made to the  
22 Secretary under this Section. The Secretary ~~Director~~ shall  
23 maintain complete and accurate records of all ~~such~~ claims and  
24 suits including their nature, amount, disposition (categorized  
25 by verdict, settlement, dismissal, or otherwise and including  
26 disposition of any post-trial motions and types of damages  
27 awarded, if any, including but not limited to economic damages  
28 and non-economic damages) and other information as he may deem  
29 useful or desirable in observing and reporting on health care  
30 provider liability trends in this State. Records received by  
31 the Secretary under this Section shall be available to the  
32 general public; however, the records made available to the  
33 general public shall not include the names or addresses of the  
34 parties to any claims or suits. The Secretary ~~Director~~ shall  
35 release to appropriate disciplinary and licensing agencies any  
36 such data or information which may assist such agencies in

1 improving the quality of health care or which may be useful to  
2 such agencies for the purpose of professional discipline.

3 With due regard for appropriate maintenance of the  
4 confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~  
5 release, on an annual basis, ~~from time to time~~ to the Governor,  
6 the General Assembly and the general public statistical reports  
7 based on such data and information.

8 If the Secretary finds that any entity required to report  
9 information in its possession under this Section has violated  
10 any provision of this Section by filing late, incomplete, or  
11 inaccurate reports, the Secretary may fine the entity up to  
12 \$1,000 for each offense. Each day during which a violation  
13 occurs constitutes a separate offense.

14 The Secretary ~~Director~~ may promulgate such rules and  
15 regulations as may be necessary to carry out the provisions of  
16 this Section.

17 (Source: P.A. 79-1434.)

18 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

19 Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate  
20 rules and regulations which shall require each insurer licensed  
21 to write property or casualty insurance in the State and each  
22 syndicate doing business on the Illinois Insurance Exchange to  
23 record and report its loss and expense experience and other  
24 data as may be necessary to assess the relationship of  
25 insurance premiums and related income as compared to insurance  
26 costs and expenses. The Secretary ~~Director~~ may designate one or  
27 more rate service organizations or advisory organizations to  
28 gather and compile such experience and data. The Secretary  
29 ~~Director~~ shall require each insurer licensed to write property  
30 or casualty insurance in this State and each syndicate doing  
31 business on the Illinois Insurance Exchange to submit a report,  
32 on a form furnished by the Secretary ~~Director~~, showing its  
33 direct writings in this State and companywide.

34 (B) Such report required by subsection (A) of this Section  
35 may include, but not be limited to, the following specific

1 types of insurance written by such insurer:

2 (1) Political subdivision liability insurance reported  
3 separately in the following categories:

4 (a) municipalities;

5 (b) school districts;

6 (c) other political subdivisions;

7 (2) Public official liability insurance;

8 (3) Dram shop liability insurance;

9 (4) Day care center liability insurance;

10 (5) Labor, fraternal or religious organizations  
11 liability insurance;

12 (6) Errors and omissions liability insurance;

13 (7) Officers and directors liability insurance  
14 reported separately as follows:

15 (a) non-profit entities;

16 (b) for-profit entities;

17 (8) Products liability insurance;

18 (9) Medical malpractice insurance;

19 (10) Attorney malpractice insurance;

20 (11) Architects and engineers malpractice insurance;

21 and

22 (12) Motor vehicle insurance reported separately for  
23 commercial and private passenger vehicles as follows:

24 (a) motor vehicle physical damage insurance;

25 (b) motor vehicle liability insurance.

26 (C) Such report may include, but need not be limited to the  
27 following data, both specific to this State and companywide, in  
28 the aggregate or by type of insurance for the previous year on  
29 a calendar year basis:

30 (1) Direct premiums written;

31 (2) Direct premiums earned;

32 (3) Number of policies;

33 (4) Net investment income, using appropriate estimates  
34 where necessary;

35 (5) Losses paid;

36 (6) Losses incurred;

- 1 (7) Loss reserves:
- 2 (a) Losses unpaid on reported claims;
- 3 (b) Losses unpaid on incurred but not reported
- 4 claims;
- 5 (8) Number of claims:
- 6 (a) Paid claims;
- 7 (b) Arising claims;
- 8 (9) Loss adjustment expenses:
- 9 (a) Allocated loss adjustment expenses;
- 10 (b) Unallocated loss adjustment expenses;
- 11 (10) Net underwriting gain or loss;
- 12 (11) Net operation gain or loss, including net
- 13 investment income;
- 14 (12) Any other information requested by the Secretary
- 15 Director.

16 (C-5) Additional information required from medical

17 malpractice insurers.

18 (1) In addition to the other requirements of this

19 Section, the following information shall be included in the

20 report required by subsection (A) of this Section in such

21 form and under such terms and conditions as may be

22 prescribed by the Secretary:

23 (a) paid and incurred losses by county for each of

24 the past 10 policy years;

25 (b) earned exposures by ISO code, policy type, and

26 policy year by county for each of the past 10 years;

27 and

28 (c) the following actuarial information:

29 (i) Base class and territory equivalent

30 exposures by report year by relative accident

31 year.

32 (ii) Cumulative loss array by accident year by

33 calendar year of development. This array will show

34 frequency of claims in the following categories:

35 open, closed with indemnity (CWI), closed with

36 expense (CWE), and closed no pay (CNP); paid

1 severity in the following categories: indemnity  
2 and allocated loss adjustment expenses (ALAE) on  
3 closed claims; and indemnity and expense reserves  
4 on pending claims.

5 (iii) Cumulative loss array by report year by  
6 calendar year of development. This array will show  
7 frequency of claims in the following categories:  
8 open, closed with indemnity (CWI), closed with  
9 expense (CWE), and closed no pay (CNP); paid  
10 severity in the following categories: indemnity  
11 and allocated loss adjustment expenses (ALAE) on  
12 closed claims; and indemnity and expense reserves  
13 on pending claims.

14 (iv) Maturity year and tail factors.

15 (v) Any expense, contingency ddr (death,  
16 disability, and retirement), commission, tax,  
17 and/or off-balance factors.

18 (2) The following information must also be annually  
19 provided to the Department:

20 (a) copies of the company's reserve and surplus  
21 studies; and

22 (b) consulting actuarial report and data  
23 supporting the company's rate filing.

24 (3) All information collected by the Secretary under  
25 paragraphs (1) and (2) shall be made available, on a  
26 company-by-company basis, to the General Assembly and the  
27 general public. This provision shall supersede any other  
28 provision of State law that may otherwise protect such  
29 information from public disclosure as confidential.

30 (D) In addition to the information which may be requested  
31 under subsection (C), the Secretary ~~Director~~ may also request  
32 on a companywide, aggregate basis, Federal Income Tax  
33 recoverable, net realized capital gain or loss, net unrealized  
34 capital gain or loss, and all other expenses not requested in  
35 subsection (C) above.

36 (E) Violations - Suspensions - Revocations.

1           (1) Any company or person subject to this Article, who  
2 willfully or repeatedly fails to observe or who otherwise  
3 violates any of the provisions of this Article or any rule  
4 or regulation promulgated by the Secretary ~~Director~~ under  
5 authority of this Article or any final order of the  
6 Secretary ~~Director~~ entered under the authority of this  
7 Article shall by civil penalty forfeit to the State of  
8 Illinois a sum not to exceed \$2,000. Each day during which  
9 a violation occurs constitutes a separate offense.

10           (2) No forfeiture liability under paragraph (1) of this  
11 subsection may attach unless a written notice of apparent  
12 liability has been issued by the Secretary ~~Director~~ and  
13 received by the respondent, or the Secretary ~~Director~~ sends  
14 written notice of apparent liability by registered or  
15 certified mail, return receipt requested, to the last known  
16 address of the respondent. Any respondent so notified must  
17 be granted an opportunity to request a hearing within 10  
18 days from receipt of notice, or to show in writing, why he  
19 should not be held liable. A notice issued under this  
20 Section must set forth the date, facts and nature of the  
21 act or omission with which the respondent is charged and  
22 must specifically identify the particular provision of  
23 this Article, rule, regulation or order of which a  
24 violation is charged.

25           (3) No forfeiture liability under paragraph (1) of this  
26 subsection may attach for any violation occurring more than  
27 2 years prior to the date of issuance of the notice of  
28 apparent liability and in no event may the total civil  
29 penalty forfeiture imposed for the acts or omissions set  
30 forth in any one notice of apparent liability exceed  
31 \$100,000.

32           (4) All administrative hearings conducted pursuant to  
33 this Article are subject to 50 Ill. Adm. Code 2402 and all  
34 administrative hearings are subject to the Administrative  
35 Review Law.

36           (5) The civil penalty forfeitures provided for in this

1 Section are payable to the General Revenue Fund of the  
2 State of Illinois, and may be recovered in a civil suit in  
3 the name of the State of Illinois brought in the Circuit  
4 Court in Sangamon County or in the Circuit Court of the  
5 county where the respondent is domiciled or has its  
6 principal operating office.

7 (6) In any case where the Secretary ~~Director~~ issues a  
8 notice of apparent liability looking toward the imposition  
9 of a civil penalty forfeiture under this Section that fact  
10 may not be used in any other proceeding before the  
11 Secretary ~~Director~~ to the prejudice of the respondent to  
12 whom the notice was issued, unless (a) the civil penalty  
13 forfeiture has been paid, or (b) a court has ordered  
14 payment of the civil penalty forfeiture and that order has  
15 become final.

16 (7) When any person or company has a license or  
17 certificate of authority under this Code and knowingly  
18 fails or refuses to comply with a lawful order of the  
19 Secretary ~~Director~~ requiring compliance with this Article,  
20 entered after notice and hearing, within the period of time  
21 specified in the order, the Secretary ~~Director~~ may, in  
22 addition to any other penalty or authority provided, revoke  
23 or refuse to renew the license or certificate of authority  
24 of such person or company, or may suspend the license or  
25 certificate of authority of such person or company until  
26 compliance with such order has been obtained.

27 (8) When any person or company has a license or  
28 certificate of authority under this Code and knowingly  
29 fails or refuses to comply with any provisions of this  
30 Article, the Secretary ~~Director~~ may, after notice and  
31 hearing, in addition to any other penalty provided, revoke  
32 or refuse to renew the license or certificate of authority  
33 of such person or company, or may suspend the license or  
34 certificate of authority of such person or company, until  
35 compliance with such provision of this Article has been  
36 obtained.

1 (9) No suspension or revocation under this Section may  
2 become effective until 5 days from the date that the notice  
3 of suspension or revocation has been personally delivered  
4 or delivered by registered or certified mail to the company  
5 or person. A suspension or revocation under this Section is  
6 stayed upon the filing, by the company or person, of a  
7 petition for judicial review under the Administrative  
8 Review Law.

9 (Source: P.A. 93-32, eff. 7-1-03.)

10 Section 315. The Medical Practice Act of 1987 is amended by  
11 changing Sections 7, 22, 23, 24, and 36 and adding Section 24.1  
12 as follows:

13 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

14 (Section scheduled to be repealed on January 1, 2007)

15 Sec. 7. Medical Disciplinary Board.

16 (A) There is hereby created the Illinois State Medical  
17 Disciplinary Board (hereinafter referred to as the  
18 "Disciplinary Board"). The Disciplinary Board shall consist of  
19 11 ~~9~~ members, to be appointed by the Governor by and with the  
20 advice and consent of the Senate. All members shall be  
21 residents of the State, not more than 6 ~~5~~ of whom shall be  
22 members of the same political party. All members shall be  
23 voting members. Five members shall be physicians licensed to  
24 practice medicine in all of its branches in Illinois possessing  
25 the degree of doctor of medicine, and it shall be the goal that  
26 at least one of the members practice in the field of  
27 neurosurgery, one of the members practice in the field of  
28 obstetrics and gynecology, and one of the members practice in  
29 the field of cardiology. One member shall be a physician  
30 licensed to practice in Illinois possessing the degree of  
31 doctor of osteopathy or osteopathic medicine. One member shall  
32 be a physician licensed to practice in Illinois and possessing  
33 the degree of doctor of chiropractic. Four members ~~Two~~ shall be  
34 members of the public, who shall not be engaged in any way,

1 directly or indirectly, as providers of health care. ~~The 2~~  
2 ~~public members shall act as voting members. One member shall be~~  
3 ~~a physician licensed to practice in Illinois possessing the~~  
4 ~~degree of doctor of osteopathy or osteopathic medicine. One~~  
5 ~~member shall be a physician licensed to practice in Illinois~~  
6 ~~and possessing the degree of doctor of chiropractic.~~

7 (B) Members of the Disciplinary Board shall be appointed  
8 for terms of 4 years. Upon the expiration of the term of any  
9 member, their successor shall be appointed for a term of 4  
10 years by the Governor by and with the advice and consent of the  
11 Senate. The Governor shall fill any vacancy for the remainder  
12 of the unexpired term by and with the advice and consent of the  
13 Senate. Upon recommendation of the Board, any member of the  
14 Disciplinary Board may be removed by the Governor for  
15 misfeasance, malfeasance, or wilful neglect of duty, after  
16 notice, and a public hearing, unless such notice and hearing  
17 shall be expressly waived in writing. Each member shall serve  
18 on the Disciplinary Board until their successor is appointed  
19 and qualified. No member of the Disciplinary Board shall serve  
20 more than 2 consecutive 4 year terms.

21 In making appointments the Governor shall attempt to insure  
22 that the various social and geographic regions of the State of  
23 Illinois are properly represented.

24 In making the designation of persons to act for the several  
25 professions represented on the Disciplinary Board, the  
26 Governor shall give due consideration to recommendations by  
27 members of the respective professions and by organizations  
28 therein.

29 (C) The Disciplinary Board shall annually elect one of its  
30 voting members as chairperson and one as vice chairperson. No  
31 officer shall be elected more than twice in succession to the  
32 same office. Each officer shall serve until their successor has  
33 been elected and qualified.

34 (D) (Blank).

35 (E) Six ~~Four~~ voting members of the Disciplinary Board, at  
36 least 4 of whom are physicians, shall constitute a quorum. A

1 vacancy in the membership of the Disciplinary Board shall not  
2 impair the right of a quorum to exercise all the rights and  
3 perform all the duties of the Disciplinary Board. Any action  
4 taken by the Disciplinary Board under this Act may be  
5 authorized by resolution at any regular or special meeting and  
6 each such resolution shall take effect immediately. The  
7 Disciplinary Board shall meet at least quarterly. The  
8 Disciplinary Board is empowered to adopt all rules and  
9 regulations necessary and incident to the powers granted to it  
10 under this Act.

11 (F) Each member, and member-officer, of the Disciplinary  
12 Board shall receive a per diem stipend as the Secretary  
13 ~~Director~~ of the Department, hereinafter referred to as the  
14 Secretary Director, shall determine. The Secretary Director  
15 shall also determine the per diem stipend that each ex-officio  
16 member shall receive. Each member shall be paid their necessary  
17 expenses while engaged in the performance of their duties.

18 (G) The Secretary Director shall select a Chief Medical  
19 Coordinator and not less than 2 ~~a~~ Deputy Medical Coordinators  
20 ~~Coordinator~~ who shall not be members of the Disciplinary Board.  
21 Each medical coordinator shall be a physician licensed to  
22 practice medicine in all of its branches, and the Secretary  
23 ~~Director~~ shall set their rates of compensation. The Secretary  
24 ~~Director~~ shall assign at least one medical coordinator to a  
25 region composed of Cook County and such other counties as the  
26 Secretary Director may deem appropriate, and such medical  
27 coordinator or coordinators shall locate their office in  
28 Chicago. The Secretary Director shall assign at least one ~~the~~  
29 ~~remaining~~ medical coordinator to a region composed of the  
30 balance of counties in the State, and such medical coordinator  
31 or coordinators shall locate their office in Springfield. Each  
32 medical coordinator shall be the chief enforcement officer of  
33 this Act in his or her ~~their~~ assigned region and shall serve at  
34 the will of the Disciplinary Board.

35 The Secretary Director shall employ, in conformity with the  
36 Personnel Code, not less than one full time investigator for

1 every 2,500 ~~5000~~ physicians licensed in the State. Each  
2 investigator shall be a college graduate with at least 2 years'  
3 investigative experience or one year advanced medical  
4 education. Upon the written request of the Disciplinary Board,  
5 the Secretary ~~Director~~ shall employ, in conformity with the  
6 Personnel Code, such other professional, technical,  
7 investigative, and clerical help, either on a full or part-time  
8 basis as the Disciplinary Board deems necessary for the proper  
9 performance of its duties.

10 (H) Upon the specific request of the Disciplinary Board,  
11 signed by either the chairman, vice chairman, or a medical  
12 coordinator of the Disciplinary Board, the Department of Human  
13 Services or the Department of State Police shall make available  
14 any and all information that they have in their possession  
15 regarding a particular case then under investigation by the  
16 Disciplinary Board.

17 (I) Members of the Disciplinary Board shall be immune from  
18 suit in any action based upon any disciplinary proceedings or  
19 other acts performed in good faith as members of the  
20 Disciplinary Board.

21 (J) The Disciplinary Board may compile and establish a  
22 statewide roster of physicians and other medical  
23 professionals, including the several medical specialties, of  
24 such physicians and medical professionals, who have agreed to  
25 serve from time to time as advisors to the medical  
26 coordinators. Such advisors shall assist the medical  
27 coordinators or the Disciplinary Board in their investigations  
28 and participation in complaints against physicians. Such  
29 advisors shall serve under contract and shall be reimbursed at  
30 a reasonable rate for the services provided, plus reasonable  
31 expenses incurred. While serving in this capacity, the advisor,  
32 for any act undertaken in good faith and in the conduct of  
33 their duties under this Section, shall be immune from civil  
34 suit.

35 (Source: P.A. 93-138, eff. 7-10-03.)

1 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

2 (Section scheduled to be repealed on January 1, 2007)

3 Sec. 22. Disciplinary action.

4 (A) The Department may revoke, suspend, place on  
5 probationary status, refuse to renew, or take any other  
6 disciplinary action as the Department may deem proper with  
7 regard to the license or visiting professor permit of any  
8 person issued under this Act to practice medicine, or to treat  
9 human ailments without the use of drugs and without operative  
10 surgery upon any of the following grounds:

11 (1) Performance of an elective abortion in any place,  
12 locale, facility, or institution other than:

13 (a) a facility licensed pursuant to the Ambulatory  
14 Surgical Treatment Center Act;

15 (b) an institution licensed under the Hospital  
16 Licensing Act; or

17 (c) an ambulatory surgical treatment center or  
18 hospitalization or care facility maintained by the  
19 State or any agency thereof, where such department or  
20 agency has authority under law to establish and enforce  
21 standards for the ambulatory surgical treatment  
22 centers, hospitalization, or care facilities under its  
23 management and control; or

24 (d) ambulatory surgical treatment centers,  
25 hospitalization or care facilities maintained by the  
26 Federal Government; or

27 (e) ambulatory surgical treatment centers,  
28 hospitalization or care facilities maintained by any  
29 university or college established under the laws of  
30 this State and supported principally by public funds  
31 raised by taxation.

32 (2) Performance of an abortion procedure in a wilful  
33 and wanton manner on a woman who was not pregnant at the  
34 time the abortion procedure was performed.

35 (3) The conviction of a felony in this or any other  
36 jurisdiction, except as otherwise provided in subsection B

1 of this Section, whether or not related to practice under  
2 this Act, or the entry of a guilty or nolo contendere plea  
3 to a felony charge.

4 (4) Gross negligence in practice under this Act.

5 (5) Engaging in dishonorable, unethical or  
6 unprofessional conduct of a character likely to deceive,  
7 defraud or harm the public.

8 (6) Obtaining any fee by fraud, deceit, or  
9 misrepresentation.

10 (7) Habitual or excessive use or abuse of drugs defined  
11 in law as controlled substances, of alcohol, or of any  
12 other substances which results in the inability to practice  
13 with reasonable judgment, skill or safety.

14 (8) Practicing under a false or, except as provided by  
15 law, an assumed name.

16 (9) Fraud or misrepresentation in applying for, or  
17 procuring, a license under this Act or in connection with  
18 applying for renewal of a license under this Act.

19 (10) Making a false or misleading statement regarding  
20 their skill or the efficacy or value of the medicine,  
21 treatment, or remedy prescribed by them at their direction  
22 in the treatment of any disease or other condition of the  
23 body or mind.

24 (11) Allowing another person or organization to use  
25 their license, procured under this Act, to practice.

26 (12) Disciplinary action of another state or  
27 jurisdiction against a license or other authorization to  
28 practice as a medical doctor, doctor of osteopathy, doctor  
29 of osteopathic medicine or doctor of chiropractic, a  
30 certified copy of the record of the action taken by the  
31 other state or jurisdiction being prima facie evidence  
32 thereof.

33 (13) Violation of any provision of this Act or of the  
34 Medical Practice Act prior to the repeal of that Act, or  
35 violation of the rules, or a final administrative action of  
36 the Secretary ~~Director~~, after consideration of the

1 recommendation of the Disciplinary Board.

2 (14) Dividing with anyone other than physicians with  
3 whom the licensee practices in a partnership, Professional  
4 Association, limited liability company, or Medical or  
5 Professional Corporation any fee, commission, rebate or  
6 other form of compensation for any professional services  
7 not actually and personally rendered. Nothing contained in  
8 this subsection prohibits persons holding valid and  
9 current licenses under this Act from practicing medicine in  
10 partnership under a partnership agreement, including a  
11 limited liability partnership, in a limited liability  
12 company under the Limited Liability Company Act, in a  
13 corporation authorized by the Medical Corporation Act, as  
14 an association authorized by the Professional Association  
15 Act, or in a corporation under the Professional Corporation  
16 Act or from pooling, sharing, dividing or apportioning the  
17 fees and monies received by them or by the partnership,  
18 corporation or association in accordance with the  
19 partnership agreement or the policies of the Board of  
20 Directors of the corporation or association. Nothing  
21 contained in this subsection prohibits 2 or more  
22 corporations authorized by the Medical Corporation Act,  
23 from forming a partnership or joint venture of such  
24 corporations, and providing medical, surgical and  
25 scientific research and knowledge by employees of these  
26 corporations if such employees are licensed under this Act,  
27 or from pooling, sharing, dividing, or apportioning the  
28 fees and monies received by the partnership or joint  
29 venture in accordance with the partnership or joint venture  
30 agreement. Nothing contained in this subsection shall  
31 abrogate the right of 2 or more persons, holding valid and  
32 current licenses under this Act, to each receive adequate  
33 compensation for concurrently rendering professional  
34 services to a patient and divide a fee; provided, the  
35 patient has full knowledge of the division, and, provided,  
36 that the division is made in proportion to the services

1 performed and responsibility assumed by each.

2 (15) A finding by the Medical Disciplinary Board that  
3 the registrant after having his or her license placed on  
4 probationary status or subjected to conditions or  
5 restrictions violated the terms of the probation or failed  
6 to comply with such terms or conditions.

7 (16) Abandonment of a patient.

8 (17) Prescribing, selling, administering,  
9 distributing, giving or self-administering any drug  
10 classified as a controlled substance (designated product)  
11 or narcotic for other than medically accepted therapeutic  
12 purposes.

13 (18) Promotion of the sale of drugs, devices,  
14 appliances or goods provided for a patient in such manner  
15 as to exploit the patient for financial gain of the  
16 physician.

17 (19) Offering, undertaking or agreeing to cure or treat  
18 disease by a secret method, procedure, treatment or  
19 medicine, or the treating, operating or prescribing for any  
20 human condition by a method, means or procedure which the  
21 licensee refuses to divulge upon demand of the Department.

22 (20) Immoral conduct in the commission of any act  
23 including, but not limited to, commission of an act of  
24 sexual misconduct related to the licensee's practice.

25 (21) Wilfully making or filing false records or reports  
26 in his or her practice as a physician, including, but not  
27 limited to, false records to support claims against the  
28 medical assistance program of the Department of Public Aid  
29 under the Illinois Public Aid Code.

30 (22) Wilful omission to file or record, or wilfully  
31 impeding the filing or recording, or inducing another  
32 person to omit to file or record, medical reports as  
33 required by law, or wilfully failing to report an instance  
34 of suspected abuse or neglect as required by law.

35 (23) Being named as a perpetrator in an indicated  
36 report by the Department of Children and Family Services

1 under the Abused and Neglected Child Reporting Act, and  
2 upon proof by clear and convincing evidence that the  
3 licensee has caused a child to be an abused child or  
4 neglected child as defined in the Abused and Neglected  
5 Child Reporting Act.

6 (24) Solicitation of professional patronage by any  
7 corporation, agents or persons, or profiting from those  
8 representing themselves to be agents of the licensee.

9 (25) Gross and wilful and continued overcharging for  
10 professional services, including filing false statements  
11 for collection of fees for which services are not rendered,  
12 including, but not limited to, filing such false statements  
13 for collection of monies for services not rendered from the  
14 medical assistance program of the Department of Public Aid  
15 under the Illinois Public Aid Code.

16 (26) A pattern of practice or other behavior which  
17 demonstrates incapacity or incompetence to practice under  
18 this Act.

19 (27) Mental illness or disability which results in the  
20 inability to practice under this Act with reasonable  
21 judgment, skill or safety.

22 (28) Physical illness, including, but not limited to,  
23 deterioration through the aging process, or loss of motor  
24 skill which results in a physician's inability to practice  
25 under this Act with reasonable judgment, skill or safety.

26 (29) Cheating on or attempt to subvert the licensing  
27 examinations administered under this Act.

28 (30) Wilfully or negligently violating the  
29 confidentiality between physician and patient except as  
30 required by law.

31 (31) The use of any false, fraudulent, or deceptive  
32 statement in any document connected with practice under  
33 this Act.

34 (32) Aiding and abetting an individual not licensed  
35 under this Act in the practice of a profession licensed  
36 under this Act.

1 (33) Violating state or federal laws or regulations  
2 relating to controlled substances, legend drugs, or  
3 ephedra, as defined in the Ephedra Prohibition Act.

4 (34) Failure to report to the Department any adverse  
5 final action taken against them by another licensing  
6 jurisdiction (any other state or any territory of the  
7 United States or any foreign state or country), by any peer  
8 review body, by any health care institution, by any  
9 professional society or association related to practice  
10 under this Act, by any governmental agency, by any law  
11 enforcement agency, or by any court for acts or conduct  
12 similar to acts or conduct which would constitute grounds  
13 for action as defined in this Section.

14 (35) Failure to report to the Department surrender of a  
15 license or authorization to practice as a medical doctor, a  
16 doctor of osteopathy, a doctor of osteopathic medicine, or  
17 doctor of chiropractic in another state or jurisdiction, or  
18 surrender of membership on any medical staff or in any  
19 medical or professional association or society, while  
20 under disciplinary investigation by any of those  
21 authorities or bodies, for acts or conduct similar to acts  
22 or conduct which would constitute grounds for action as  
23 defined in this Section.

24 (36) Failure to report to the Department any adverse  
25 judgment, settlement, or award arising from a liability  
26 claim related to acts or conduct similar to acts or conduct  
27 which would constitute grounds for action as defined in  
28 this Section.

29 (37) Failure to transfer copies of medical records as  
30 required by law.

31 (38) Failure to furnish the Department, its  
32 investigators or representatives, relevant information,  
33 legally requested by the Department after consultation  
34 with the Chief Medical Coordinator or the Deputy Medical  
35 Coordinator.

36 (39) Violating the Health Care Worker Self-Referral

1 Act.

2 (40) Willful failure to provide notice when notice is  
3 required under the Parental Notice of Abortion Act of 1995.

4 (41) Failure to establish and maintain records of  
5 patient care and treatment as required by this law.

6 (42) Entering into an excessive number of written  
7 collaborative agreements with licensed advanced practice  
8 nurses resulting in an inability to adequately collaborate  
9 and provide medical direction.

10 (43) Repeated failure to adequately collaborate with  
11 or provide medical direction to a licensed advanced  
12 practice nurse.

13 Except for actions involving the ground numbered (26), all  
14 ~~All~~ proceedings to suspend, revoke, place on probationary  
15 status, or take any other disciplinary action as the Department  
16 may deem proper, with regard to a license on any of the  
17 foregoing grounds, must be commenced within 5 ~~3~~ years next  
18 after receipt by the Department of a complaint alleging the  
19 commission of or notice of the conviction order for any of the  
20 acts described herein. Except for the grounds numbered (8),  
21 (9), (26), and (29), no action shall be commenced more than 10  
22 ~~5~~ years after the date of the incident or act alleged to have  
23 violated this Section. For actions involving the ground  
24 numbered (26), a pattern of practice or other behavior includes  
25 all incidents alleged to be part of the pattern of practice or  
26 other behavior that occurred or a report pursuant to Section 23  
27 of this Act received within the 10-year period preceding the  
28 filing of the complaint. In the event of the settlement of any  
29 claim or cause of action in favor of the claimant or the  
30 reduction to final judgment of any civil action in favor of the  
31 plaintiff, such claim, cause of action or civil action being  
32 grounded on the allegation that a person licensed under this  
33 Act was negligent in providing care, the Department shall have  
34 an additional period of 2 years ~~one year~~ from the date of  
35 notification to the Department under Section 23 of this Act of  
36 such settlement or final judgment in which to investigate and

1 commence formal disciplinary proceedings under Section 36 of  
2 this Act, except as otherwise provided by law. The time during  
3 which the holder of the license was outside the State of  
4 Illinois shall not be included within any period of time  
5 limiting the commencement of disciplinary action by the  
6 Department.

7 The entry of an order or judgment by any circuit court  
8 establishing that any person holding a license under this Act  
9 is a person in need of mental treatment operates as a  
10 suspension of that license. That person may resume their  
11 practice only upon the entry of a Departmental order based upon  
12 a finding by the Medical Disciplinary Board that they have been  
13 determined to be recovered from mental illness by the court and  
14 upon the Disciplinary Board's recommendation that they be  
15 permitted to resume their practice.

16 The Department may refuse to issue or take disciplinary  
17 action concerning the license of any person who fails to file a  
18 return, or to pay the tax, penalty or interest shown in a filed  
19 return, or to pay any final assessment of tax, penalty or  
20 interest, as required by any tax Act administered by the  
21 Illinois Department of Revenue, until such time as the  
22 requirements of any such tax Act are satisfied as determined by  
23 the Illinois Department of Revenue.

24 The Department, upon the recommendation of the  
25 Disciplinary Board, shall adopt rules which set forth standards  
26 to be used in determining:

27 (a) when a person will be deemed sufficiently  
28 rehabilitated to warrant the public trust;

29 (b) what constitutes dishonorable, unethical or  
30 unprofessional conduct of a character likely to deceive,  
31 defraud, or harm the public;

32 (c) what constitutes immoral conduct in the commission  
33 of any act, including, but not limited to, commission of an  
34 act of sexual misconduct related to the licensee's  
35 practice; and

36 (d) what constitutes gross negligence in the practice

1 of medicine.

2 However, no such rule shall be admissible into evidence in  
3 any civil action except for review of a licensing or other  
4 disciplinary action under this Act.

5 In enforcing this Section, the Medical Disciplinary Board,  
6 upon a showing of a possible violation, may compel any  
7 individual licensed to practice under this Act, or who has  
8 applied for licensure or a permit pursuant to this Act, to  
9 submit to a mental or physical examination, or both, as  
10 required by and at the expense of the Department. The examining  
11 physician or physicians shall be those specifically designated  
12 by the Disciplinary Board. The Medical Disciplinary Board or  
13 the Department may order the examining physician to present  
14 testimony concerning this mental or physical examination of the  
15 licensee or applicant. No information shall be excluded by  
16 reason of any common law or statutory privilege relating to  
17 communication between the licensee or applicant and the  
18 examining physician. The individual to be examined may have, at  
19 his or her own expense, another physician of his or her choice  
20 present during all aspects of the examination. Failure of any  
21 individual to submit to mental or physical examination, when  
22 directed, shall be grounds for suspension of his or her license  
23 until such time as the individual submits to the examination if  
24 the Disciplinary Board finds, after notice and hearing, that  
25 the refusal to submit to the examination was without reasonable  
26 cause. If the Disciplinary Board finds a physician unable to  
27 practice because of the reasons set forth in this Section, the  
28 Disciplinary Board shall require such physician to submit to  
29 care, counseling, or treatment by physicians approved or  
30 designated by the Disciplinary Board, as a condition for  
31 continued, reinstated, or renewed licensure to practice. Any  
32 physician, whose license was granted pursuant to Sections 9,  
33 17, or 19 of this Act, or, continued, reinstated, renewed,  
34 disciplined or supervised, subject to such terms, conditions or  
35 restrictions who shall fail to comply with such terms,  
36 conditions or restrictions, or to complete a required program

1 of care, counseling, or treatment, as determined by the Chief  
2 Medical Coordinator or Deputy Medical Coordinators, shall be  
3 referred to the Secretary ~~Director~~ for a determination as to  
4 whether the licensee shall have their license suspended  
5 immediately, pending a hearing by the Disciplinary Board. In  
6 instances in which the Secretary ~~Director~~ immediately suspends  
7 a license under this Section, a hearing upon such person's  
8 license must be convened by the Disciplinary Board within 15  
9 days after such suspension and completed without appreciable  
10 delay. The Disciplinary Board shall have the authority to  
11 review the subject physician's record of treatment and  
12 counseling regarding the impairment, to the extent permitted by  
13 applicable federal statutes and regulations safeguarding the  
14 confidentiality of medical records.

15 An individual licensed under this Act, affected under this  
16 Section, shall be afforded an opportunity to demonstrate to the  
17 Disciplinary Board that they can resume practice in compliance  
18 with acceptable and prevailing standards under the provisions  
19 of their license.

20 The Department may promulgate rules for the imposition of  
21 fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for  
22 each violation of this Act. Fines may be imposed in conjunction  
23 with other forms of disciplinary action, but shall not be the  
24 exclusive disposition of any disciplinary action arising out of  
25 conduct resulting in death or injury to a patient. Any funds  
26 collected from such fines shall be deposited in the Medical  
27 Disciplinary Fund.

28 (B) The Department shall revoke the license or visiting  
29 permit of any person issued under this Act to practice medicine  
30 or to treat human ailments without the use of drugs and without  
31 operative surgery, who has been convicted a second time of  
32 committing any felony under the Illinois Controlled Substances  
33 Act, or who has been convicted a second time of committing a  
34 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois  
35 Public Aid Code. A person whose license or visiting permit is  
36 revoked under this subsection B of Section 22 of this Act shall

1 be prohibited from practicing medicine or treating human  
2 ailments without the use of drugs and without operative  
3 surgery.

4 (C) The Medical Disciplinary Board shall recommend to the  
5 Department civil penalties and any other appropriate  
6 discipline in disciplinary cases when the Board finds that a  
7 physician willfully performed an abortion with actual  
8 knowledge that the person upon whom the abortion has been  
9 performed is a minor or an incompetent person without notice as  
10 required under the Parental Notice of Abortion Act of 1995.  
11 Upon the Board's recommendation, the Department shall impose,  
12 for the first violation, a civil penalty of \$1,000 and for a  
13 second or subsequent violation, a civil penalty of \$5,000.

14 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,  
15 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

16 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

17 (Section scheduled to be repealed on January 1, 2007)

18 Sec. 23. Reports relating to professional conduct and  
19 capacity.

20 (A) Entities required to report.

21 (1) Health care institutions. The chief administrator  
22 or executive officer of any health care institution  
23 licensed by the Illinois Department of Public Health shall  
24 report to the Disciplinary Board when any person's clinical  
25 privileges are terminated or are restricted based on a  
26 final determination, in accordance with that institution's  
27 by-laws or rules and regulations, that a person has either  
28 committed an act or acts which may directly threaten  
29 patient care, and not of an administrative nature, or that  
30 a person may be mentally or physically disabled in such a  
31 manner as to endanger patients under that person's care.  
32 Such officer also shall report if a person accepts  
33 voluntary termination or restriction of clinical  
34 privileges in lieu of formal action based upon conduct  
35 related directly to patient care and not of an

1 administrative nature, or in lieu of formal action seeking  
2 to determine whether a person may be mentally or physically  
3 disabled in such a manner as to endanger patients under  
4 that person's care. The Medical Disciplinary Board shall,  
5 by rule, provide for the reporting to it of all instances  
6 in which a person, licensed under this Act, who is impaired  
7 by reason of age, drug or alcohol abuse or physical or  
8 mental impairment, is under supervision and, where  
9 appropriate, is in a program of rehabilitation. Such  
10 reports shall be strictly confidential and may be reviewed  
11 and considered only by the members of the Disciplinary  
12 Board, or by authorized staff as provided by rules of the  
13 Disciplinary Board. Provisions shall be made for the  
14 periodic report of the status of any such person not less  
15 than twice annually in order that the Disciplinary Board  
16 shall have current information upon which to determine the  
17 status of any such person. Such initial and periodic  
18 reports of impaired physicians shall not be considered  
19 records within the meaning of The State Records Act and  
20 shall be disposed of, following a determination by the  
21 Disciplinary Board that such reports are no longer  
22 required, in a manner and at such time as the Disciplinary  
23 Board shall determine by rule. The filing of such reports  
24 shall be construed as the filing of a report for purposes  
25 of subsection (C) of this Section.

26 (2) Professional associations. The President or chief  
27 executive officer of any association or society, of persons  
28 licensed under this Act, operating within this State shall  
29 report to the Disciplinary Board when the association or  
30 society renders a final determination that a person has  
31 committed unprofessional conduct related directly to  
32 patient care or that a person may be mentally or physically  
33 disabled in such a manner as to endanger patients under  
34 that person's care.

35 (3) Professional liability insurers. Every insurance  
36 company which offers policies of professional liability

1 insurance to persons licensed under this Act, or any other  
2 entity which seeks to indemnify the professional liability  
3 of a person licensed under this Act, shall report to the  
4 Disciplinary Board the settlement of any claim or cause of  
5 action, or final judgment rendered in any cause of action,  
6 which alleged negligence in the furnishing of medical care  
7 by such licensed person when such settlement or final  
8 judgment is in favor of the plaintiff.

9 (4) State's Attorneys. The State's Attorney of each  
10 county shall report to the Disciplinary Board all instances  
11 in which a person licensed under this Act is convicted or  
12 otherwise found guilty of the commission of any felony. The  
13 State's Attorney of each county may report to the  
14 Disciplinary Board through a verified complaint any  
15 instance in which the State's Attorney believes that a  
16 physician has willfully violated the notice requirements  
17 of the Parental Notice of Abortion Act of 1995.

18 (5) State agencies. All agencies, boards, commissions,  
19 departments, or other instrumentalities of the government  
20 of the State of Illinois shall report to the Disciplinary  
21 Board any instance arising in connection with the  
22 operations of such agency, including the administration of  
23 any law by such agency, in which a person licensed under  
24 this Act has either committed an act or acts which may be a  
25 violation of this Act or which may constitute  
26 unprofessional conduct related directly to patient care or  
27 which indicates that a person licensed under this Act may  
28 be mentally or physically disabled in such a manner as to  
29 endanger patients under that person's care.

30 (B) Mandatory reporting. All reports required by items  
31 (34), (35), and (36) of subsection (A) of Section 22 and by  
32 Section 23 shall be submitted to the Disciplinary Board in a  
33 timely fashion. The reports shall be filed in writing within 60  
34 days after a determination that a report is required under this  
35 Act. All reports shall contain the following information:

36 (1) The name, address and telephone number of the

1 person making the report.

2 (2) The name, address and telephone number of the  
3 person who is the subject of the report.

4 (3) The name and date of birth ~~or other means of~~  
5 ~~identification~~ of any patient or patients whose treatment  
6 is a subject of the report, if available, or other means of  
7 identification if such information is not available,  
8 identification of the hospital or other healthcare  
9 facility where the care at issue in the report was  
10 rendered, provided, however, no medical records may be  
11 revealed ~~without the written consent of the patient or~~  
12 ~~patients.~~

13 (4) A brief description of the facts which gave rise to  
14 the issuance of the report, including the dates of any  
15 occurrences deemed to necessitate the filing of the report.

16 (5) If court action is involved, the identity of the  
17 court in which the action is filed, along with the docket  
18 number and date of filing of the action.

19 (6) Any further pertinent information which the  
20 reporting party deems to be an aid in the evaluation of the  
21 report.

22 ~~The Department shall have the right to inform patients of~~  
23 ~~the right to provide written consent for the Department to~~  
24 ~~obtain copies of hospital and medical records.~~ The Disciplinary  
25 Board or Department may also exercise the power under Section  
26 38 of this Act to subpoena copies of hospital or medical  
27 records in mandatory report cases alleging death or permanent  
28 bodily injury ~~when consent to obtain records is not provided by~~  
29 ~~a patient or legal representative.~~ Appropriate rules shall be  
30 adopted by the Department with the approval of the Disciplinary  
31 Board.

32 When the Department has received written reports  
33 concerning incidents required to be reported in items (34),  
34 (35), and (36) of subsection (A) of Section 22, the licensee's  
35 failure to report the incident to the Department under those  
36 items shall not be the sole grounds for disciplinary action.

1 Nothing contained in this Section shall act to in any way,  
2 waive or modify the confidentiality of medical reports and  
3 committee reports to the extent provided by law. Any  
4 information reported or disclosed shall be kept for the  
5 confidential use of the Disciplinary Board, the Medical  
6 Coordinators, the Disciplinary Board's attorneys, the medical  
7 investigative staff, and authorized clerical staff, as  
8 provided in this Act, and shall be afforded the same status as  
9 is provided information concerning medical studies in Part 21  
10 of Article VIII of the Code of Civil Procedure, except that the  
11 Department may disclose information and documents to a federal,  
12 State, or local law enforcement agency pursuant to a subpoena  
13 in an ongoing criminal investigation. Furthermore, information  
14 and documents disclosed to a federal, State, or local law  
15 enforcement agency may be used by that agency only for the  
16 investigation and prosecution of a criminal offense.

17 (C) Immunity from prosecution. Any individual or  
18 organization acting in good faith, and not in a wilful and  
19 wanton manner, in complying with this Act by providing any  
20 report or other information to the Disciplinary Board or a peer  
21 review committee, or assisting in the investigation or  
22 preparation of such information, or by voluntarily reporting to  
23 the Disciplinary Board or a peer review committee information  
24 regarding alleged errors or negligence by a person licensed  
25 under this Act, or by participating in proceedings of the  
26 Disciplinary Board or a peer review committee, or by serving as  
27 a member of the Disciplinary Board or a peer review committee,  
28 shall not, as a result of such actions, be subject to criminal  
29 prosecution or civil damages.

30 (D) Indemnification. Members of the Disciplinary Board,  
31 the Medical Coordinators, the Disciplinary Board's attorneys,  
32 the medical investigative staff, physicians retained under  
33 contract to assist and advise the medical coordinators in the  
34 investigation, and authorized clerical staff shall be  
35 indemnified by the State for any actions occurring within the  
36 scope of services on the Disciplinary Board, done in good faith

1 and not wilful and wanton in nature. The Attorney General shall  
2 defend all such actions unless he or she determines either that  
3 there would be a conflict of interest in such representation or  
4 that the actions complained of were not in good faith or were  
5 wilful and wanton.

6 Should the Attorney General decline representation, the  
7 member shall have the right to employ counsel of his or her  
8 choice, whose fees shall be provided by the State, after  
9 approval by the Attorney General, unless there is a  
10 determination by a court that the member's actions were not in  
11 good faith or were wilful and wanton.

12 The member must notify the Attorney General within 7 days  
13 of receipt of notice of the initiation of any action involving  
14 services of the Disciplinary Board. Failure to so notify the  
15 Attorney General shall constitute an absolute waiver of the  
16 right to a defense and indemnification.

17 The Attorney General shall determine within 7 days after  
18 receiving such notice, whether he or she will undertake to  
19 represent the member.

20 (E) Deliberations of Disciplinary Board. Upon the receipt  
21 of any report called for by this Act, other than those reports  
22 of impaired persons licensed under this Act required pursuant  
23 to the rules of the Disciplinary Board, the Disciplinary Board  
24 shall notify in writing, by certified mail, the person who is  
25 the subject of the report. Such notification shall be made  
26 within 30 days of receipt by the Disciplinary Board of the  
27 report.

28 The notification shall include a written notice setting  
29 forth the person's right to examine the report. Included in  
30 such notification shall be the address at which the file is  
31 maintained, the name of the custodian of the reports, and the  
32 telephone number at which the custodian may be reached. The  
33 person who is the subject of the report shall submit a written  
34 statement responding, clarifying, adding to, or proposing the  
35 amending of the report previously filed. The person who is the  
36 subject of the report shall also submit with the written

1 statement any medical records related to the report. The  
2 statement and accompanying medical records shall become a  
3 permanent part of the file and must be received by the  
4 Disciplinary Board no more than 30 ~~60~~ days after the date on  
5 which the person was notified by the Disciplinary Board of the  
6 existence of the original report.

7 The Disciplinary Board shall review all reports received by  
8 it, together with any supporting information and responding  
9 statements submitted by persons who are the subject of reports.  
10 The review by the Disciplinary Board shall be in a timely  
11 manner but in no event, shall the Disciplinary Board's initial  
12 review of the material contained in each disciplinary file be  
13 less than 61 days nor more than 180 days after the receipt of  
14 the initial report by the Disciplinary Board.

15 When the Disciplinary Board makes its initial review of the  
16 materials contained within its disciplinary files, the  
17 Disciplinary Board shall, in writing, make a determination as  
18 to whether there are sufficient facts to warrant further  
19 investigation or action. Failure to make such determination  
20 within the time provided shall be deemed to be a determination  
21 that there are not sufficient facts to warrant further  
22 investigation or action.

23 Should the Disciplinary Board find that there are not  
24 sufficient facts to warrant further investigation, or action,  
25 the report shall be accepted for filing and the matter shall be  
26 deemed closed and so reported to the Secretary ~~Director~~. The  
27 Secretary ~~Director~~ shall then have 30 days to accept the  
28 Medical Disciplinary Board's decision or request further  
29 investigation. The Secretary ~~Director~~ shall inform the Board in  
30 writing of the decision to request further investigation,  
31 including the specific reasons for the decision. The individual  
32 or entity filing the original report or complaint and the  
33 person who is the subject of the report or complaint shall be  
34 notified in writing by the Secretary ~~Director~~ of any final  
35 action on their report or complaint.

36 (F) Summary reports. The Disciplinary Board shall prepare,

1 on a timely basis, but in no event less than one every other  
2 month, a summary report of final actions taken upon  
3 disciplinary files maintained by the Disciplinary Board. The  
4 summary reports shall be sent by the Disciplinary Board to  
5 every health care facility licensed by the Illinois Department  
6 of Public Health, every professional association and society of  
7 persons licensed under this Act functioning on a statewide  
8 basis in this State, the American Medical Association, the  
9 American Osteopathic Association, the American Chiropractic  
10 Association, all insurers providing professional liability  
11 insurance to persons licensed under this Act in the State of  
12 Illinois, the Federation of State Medical Licensing Boards, and  
13 the Illinois Pharmacists Association.

14 (G) Any violation of this Section shall be a Class A  
15 misdemeanor.

16 (H) If any such person violates the provisions of this  
17 Section an action may be brought in the name of the People of  
18 the State of Illinois, through the Attorney General of the  
19 State of Illinois, for an order enjoining such violation or for  
20 an order enforcing compliance with this Section. Upon filing of  
21 a verified petition in such court, the court may issue a  
22 temporary restraining order without notice or bond and may  
23 preliminarily or permanently enjoin such violation, and if it  
24 is established that such person has violated or is violating  
25 the injunction, the court may punish the offender for contempt  
26 of court. Proceedings under this paragraph shall be in addition  
27 to, and not in lieu of, all other remedies and penalties  
28 provided for by this Section.

29 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97; 90-699,  
30 eff. 1-1-99.)

31 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

32 (Section scheduled to be repealed on January 1, 2007)

33 Sec. 24. Report of violations; medical associations. Any  
34 physician licensed under this Act, the Illinois State Medical  
35 Society, the Illinois Association of Osteopathic Physicians

1 and Surgeons, the Illinois Chiropractic Society, the Illinois  
2 Prairie State Chiropractic Association, or any component  
3 societies of any of these 4 groups, and any other person, may  
4 report to the Disciplinary Board any information the physician,  
5 association, society, or person may have that appears to show  
6 that a physician is or may be in violation of any of the  
7 provisions of Section 22 of this Act.

8 The Department may enter into agreements with the Illinois  
9 State Medical Society, the Illinois Association of Osteopathic  
10 Physicians and Surgeons, the Illinois Prairie State  
11 Chiropractic Association, or the Illinois Chiropractic Society  
12 to allow these organizations to assist the Disciplinary Board  
13 in the review of alleged violations of this Act. Subject to the  
14 approval of the Department, any organization party to such an  
15 agreement may subcontract with other individuals or  
16 organizations to assist in review.

17 Any physician, association, society, or person  
18 participating in good faith in the making of a report, under  
19 this Act or participating in or assisting with an investigation  
20 or review under this Act ~~Section~~ shall have immunity from any  
21 civil, criminal, or other liability that might result by reason  
22 of those actions.

23 The medical information in the custody of an entity under  
24 contract with the Department participating in an investigation  
25 or review shall be privileged and confidential to the same  
26 extent as are information and reports under the provisions of  
27 Part 21 of Article VIII of the Code of Civil Procedure.

28 Upon request by the Department after a mandatory report has  
29 been filed with the Department, an attorney for any party  
30 seeking to recover damages for injuries or death by reason of  
31 medical, hospital, or other healing art malpractice shall  
32 provide patient records related to the physician involved in  
33 the disciplinary proceeding to the Department within 30 days of  
34 the Department's request for use by the Department in any  
35 disciplinary matter under this Act. An attorney who provides  
36 patient records to the Department in accordance with this

1 requirement shall not be deemed to have violated any  
2 attorney-client privilege. Notwithstanding any other provision  
3 of law, consent by a patient shall not be required for the  
4 provision of patient records in accordance with this  
5 requirement.

6 For the purpose of any civil or criminal proceedings, the  
7 good faith of any physician, association, society or person  
8 shall be presumed. The Disciplinary Board may request the  
9 Illinois State Medical Society, the Illinois Association of  
10 Osteopathic Physicians and Surgeons, the Illinois Prairie  
11 State Chiropractic Association, or the Illinois Chiropractic  
12 Society to assist the Disciplinary Board in preparing for or  
13 conducting any medical competency examination as the Board may  
14 deem appropriate.

15 (Source: P.A. 88-324.)

16 (225 ILCS 60/24.1 new)

17 Sec. 24.1. Physician profile.

18 (a) This Section may be cited as the Patients' Right to  
19 Know Law.

20 (b) The Department shall make available to the public a  
21 profile of each physician. The Department shall make this  
22 information available through an Internet web site and, if  
23 requested, in writing. The physician profile shall contain the  
24 following information:

25 (1) the full name of the physician;

26 (2) a description of any criminal convictions for  
27 felonies and Class A misdemeanors, as determined by the  
28 Department, within the most recent 5 years. For the  
29 purposes of this Section, a person shall be deemed to be  
30 convicted of a crime if he or she pleaded guilty or if he  
31 was found or adjudged guilty by a court of competent  
32 jurisdiction;

33 (3) a description of any final Department disciplinary  
34 actions within the most recent 5 years;

35 (4) a description of any final disciplinary actions by

1 licensing boards in other states within the most recent 5  
2 years;

3 (5) a description of revocation or involuntary  
4 restriction of hospital privileges for reasons related to  
5 competence or character that have been taken by the  
6 hospital's governing body or any other official of the  
7 hospital after procedural due process has been afforded, or  
8 the resignation from or nonrenewal of medical staff  
9 membership or the restriction of privileges at a hospital  
10 taken in lieu of or in settlement of a pending disciplinary  
11 case related to competence or character in that hospital.  
12 Only cases which have occurred within the most recent 5  
13 years shall be disclosed by the Department to the public;

14 (6) all medical malpractice court judgments and all  
15 medical malpractice arbitration awards in which a payment  
16 was awarded to a complaining party during the most recent 5  
17 years and all settlements of medical malpractice claims in  
18 which a payment was made to a complaining party within the  
19 most recent 5 years. A medical malpractice judgment or  
20 award that has been appealed shall be identified  
21 prominently as "Under Appeal" on the profile within 20 days  
22 of formal written notice to the Department. Information  
23 concerning all settlements shall be accompanied by the  
24 following statement: "Settlement of a claim may occur for a  
25 variety of reasons which do not necessarily reflect  
26 negatively on the professional competence or conduct of the  
27 physician. A payment in settlement of a medical malpractice  
28 action or claim should not be construed as creating a  
29 presumption that medical malpractice has occurred."  
30 Nothing in this subdivision (6) shall be construed to limit  
31 or prevent the Disciplinary Board from providing further  
32 explanatory information regarding the significance of  
33 categories in which settlements are reported. Pending  
34 malpractice claims shall not be disclosed by the Department  
35 to the public. Nothing in this subdivision (6) shall be  
36 construed to prevent the Disciplinary Board from

1 investigating and the Department from disciplining a  
2 physician on the basis of medical malpractice claims that  
3 are pending;

4 (7) names of medical schools attended, dates of  
5 attendance, and date of graduation;

6 (8) graduate medical education;

7 (9) specialty board certification. The toll-free  
8 number of the American Board of Medical Specialties shall  
9 be included to verify current board certification status;

10 (10) number of years in practice and locations;

11 (11) names of the hospitals where the physician has  
12 privileges;

13 (12) appointments to medical school faculties and  
14 indication as to whether a physician has a responsibility  
15 for graduate medical education within the most recent 5  
16 years;

17 (13) information regarding publications in  
18 peer-reviewed medical literature within the most recent 5  
19 years;

20 (14) information regarding professional or community  
21 service activities and awards;

22 (15) the location of the physician's primary practice  
23 setting;

24 (16) identification of any translating services that  
25 may be available at the physician's primary practice  
26 location;

27 (17) an indication of whether the physician  
28 participates in the Medicaid program.

29 (c) The Disciplinary Board shall provide individual  
30 physicians with a copy of their profiles prior to release to  
31 the public. A physician shall be provided 60 days to correct  
32 factual inaccuracies that appear in such profile.

33 (d) A physician may elect to have his or her profile omit  
34 certain information provided pursuant to subdivisions (12)  
35 through (14) of subsection (b) concerning academic  
36 appointments and teaching responsibilities, publication in

1 peer-reviewed journals and professional and community service  
2 awards. In collecting information for such profiles and in  
3 disseminating the same, the Disciplinary Board shall inform  
4 physicians that they may choose not to provide such information  
5 required pursuant to subdivisions (12) through (14) of  
6 subsection (b).

7 (e) The Department shall promulgate such rules as it deems  
8 necessary to accomplish the requirements of this Section.

9 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

10 (Section scheduled to be repealed on January 1, 2007)

11 Sec. 36. Upon the motion of either the Department or the  
12 Disciplinary Board or upon the verified complaint in writing of  
13 any person setting forth facts which, if proven, would  
14 constitute grounds for suspension or revocation under Section  
15 22 of this Act, the Department shall investigate the actions of  
16 any person, so accused, who holds or represents that they hold  
17 a license. Such person is hereinafter called the accused.

18 The Department shall, before suspending, revoking, placing  
19 on probationary status, or taking any other disciplinary action  
20 as the Department may deem proper with regard to any license at  
21 least 30 days prior to the date set for the hearing, notify the  
22 accused in writing of any charges made and the time and place  
23 for a hearing of the charges before the Disciplinary Board,  
24 direct them to file their written answer thereto to the  
25 Disciplinary Board under oath within 20 days after the service  
26 on them of such notice and inform them that if they fail to  
27 file such answer default will be taken against them and their  
28 license may be suspended, revoked, placed on probationary  
29 status, or have other disciplinary action, including limiting  
30 the scope, nature or extent of their practice, as the  
31 Department may deem proper taken with regard thereto.

32 Where a physician has been found, upon complaint and  
33 investigation of the Department, and after hearing, to have  
34 performed an abortion procedure in a wilful and wanton manner  
35 upon a woman who was not pregnant at the time such abortion

1 procedure was performed, the Department shall automatically  
2 revoke the license of such physician to practice medicine in  
3 Illinois.

4 Such written notice and any notice in such proceedings  
5 thereafter may be served by delivery of the same, personally,  
6 to the accused person, or by mailing the same by registered or  
7 certified mail to the address last theretofore specified by the  
8 accused in their last notification to the Department.

9 All information gathered by the Department during its  
10 investigation including information subpoenaed under Section  
11 23 or 38 of this Act and the investigative file shall be kept  
12 for the confidential use of the Secretary ~~Director~~,  
13 Disciplinary Board, the Medical Coordinators, persons employed  
14 by contract to advise the Medical Coordinator or the  
15 Department, the Disciplinary Board's attorneys, the medical  
16 investigative staff, and authorized clerical staff, as  
17 provided in this Act and shall be afforded the same status as  
18 is provided information concerning medical studies in Part 21  
19 of Article VIII of the Code of Civil Procedure, except that the  
20 Department may disclose information and documents to a federal,  
21 State, or local law enforcement agency pursuant to a subpoena  
22 in an ongoing criminal investigation. Furthermore, information  
23 and documents disclosed to a federal, State, or local law  
24 enforcement agency may be used by that agency only for the  
25 investigation and prosecution of a criminal offense.

26 (Source: P.A. 90-699, eff. 1-1-99.)

27 Section 320. The Clerks of Courts Act is amended by adding  
28 Section 27.10 as follows:

29 (705 ILCS 105/27.10 new)

30 Sec. 27.10. Secretary of Financial and Professional  
31 Regulation. Each clerk of the circuit court shall provide to  
32 the Secretary of Financial and Professional Regulation such  
33 information as the Secretary of Financial and Professional  
34 Regulation requests under Section 155.19 of the Illinois

1 Insurance Code.

2 Section 330. The Code of Civil Procedure is amended by  
3 reenacting and changing Sections 2-622 and 8-2501, by changing  
4 Section 8-1901, and by adding Sections 2-1704.5 and 2-1706.5 as  
5 follows:

6 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

7 (Text of Section WITHOUT the changes made by P.A. 89-7,  
8 which has been held unconstitutional)

9 Sec. 2-622. Healing art malpractice.

10 (a) In any action, whether in tort, contract or otherwise,  
11 in which the plaintiff seeks damages for injuries or death by  
12 reason of medical, hospital, or other healing art malpractice,  
13 the plaintiff's attorney or the plaintiff, if the plaintiff is  
14 proceeding pro se, shall file an affidavit, attached to the  
15 original and all copies of the complaint, declaring one of the  
16 following:

17 1. That the affiant has consulted and reviewed the  
18 facts of the case with a health professional who the  
19 affiant reasonably believes: (i) is knowledgeable in the  
20 relevant issues involved in the particular action; (ii)  
21 practices or has practiced within the last 5 ~~6~~ years or  
22 teaches or has taught within the last 5 ~~6~~ years in the same  
23 area of health care or medicine that is at issue in the  
24 particular action; and (iii) meets the expert witness  
25 standards set forth in paragraphs (a) through (d) of  
26 Section 8-2501; ~~is qualified by experience or demonstrated~~  
27 ~~competence in the subject of the case;~~ that the reviewing  
28 health professional has determined in a written report,  
29 after a review of the medical record and other relevant  
30 material involved in the particular action that there is a  
31 reasonable and meritorious cause for the filing of such  
32 action; and that the affiant has concluded on the basis of  
33 the reviewing health professional's review and  
34 consultation that there is a reasonable and meritorious

1           cause for filing of such action. A single written report  
2           must be filed to cover each defendant in the action. As to  
3           defendants who are individuals, the ~~If the affidavit is~~  
4           ~~filed as to a defendant who is a physician licensed to~~  
5           ~~treat human ailments without the use of drugs or medicines~~  
6           ~~and without operative surgery, a dentist, a podiatrist, a~~  
7           ~~psychologist, or a naprapath,~~ The written report must be  
8           from a health professional licensed in the same profession,  
9           with the same class of license, as the defendant. For  
10          written reports ~~affidavits~~ filed as to all other  
11          defendants, who are not individuals, the written report  
12          must be from a physician licensed to practice medicine in  
13          all its branches who is qualified by experience with the  
14          standard of care, methods, procedures and treatments  
15          relevant to the allegations at issue in the case. In either  
16          event, the written report ~~affidavit~~ must identify the  
17          profession of the reviewing health professional. A copy of  
18          the written report, clearly identifying the plaintiff and  
19          the reasons for the reviewing health professional's  
20          determination that a reasonable and meritorious cause for  
21          the filing of the action exists, including the reviewing  
22          health care professional's name, address, current license  
23          number, and state of licensure, must be attached to the  
24          affidavit, ~~but information which would identify the~~  
25          ~~reviewing health professional may be deleted from the copy~~  
26          ~~so attached.~~ Information regarding the preparation of a  
27          written report by the reviewing health professional shall  
28          not be used to discriminate against that professional in  
29          the issuance of medical liability insurance or in the  
30          setting of that professional's medical liability insurance  
31          premium. No professional organization may discriminate  
32          against a reviewing health professional on the basis that  
33          the reviewing health professional has prepared a written  
34          report.

35                 2. That the affiant was unable to obtain a consultation  
36                 required by paragraph 1 because a statute of limitations

1 would impair the action and the consultation required could  
2 not be obtained before the expiration of the statute of  
3 limitations. If an affidavit is executed pursuant to this  
4 paragraph, the affidavit ~~certificate~~ and written report  
5 required by paragraph 1 shall be filed within 90 days after  
6 the filing of the complaint. No additional 90-day  
7 extensions pursuant to this paragraph shall be granted,  
8 except where there has been a withdrawal of the plaintiff's  
9 counsel. The defendant shall be excused from answering or  
10 otherwise pleading until 30 days after being served with an  
11 affidavit and a report ~~a certificate~~ required by paragraph  
12 1.

13 3. That a request has been made by the plaintiff or his  
14 attorney for examination and copying of records pursuant to  
15 Part 20 of Article VIII of this Code and the party required  
16 to comply under those Sections has failed to produce such  
17 records within 60 days of the receipt of the request. If an  
18 affidavit is executed pursuant to this paragraph, the  
19 affidavit ~~certificate~~ and written report required by  
20 paragraph 1 shall be filed within 90 days following receipt  
21 of the requested records. All defendants except those whose  
22 failure to comply with Part 20 of Article VIII of this Code  
23 is the basis for an affidavit under this paragraph shall be  
24 excused from answering or otherwise pleading until 30 days  
25 after being served with the affidavit and report  
26 ~~certificate~~ required by paragraph 1.

27 (b) Where an affidavit ~~a certificate~~ and written report are  
28 required pursuant to this Section a separate affidavit  
29 ~~certificate~~ and written report shall be filed as to each  
30 defendant who has been named in the complaint and shall be  
31 filed as to each defendant named at a later time.

32 (c) Where the plaintiff intends to rely on the doctrine of  
33 "res ipsa loquitur", as defined by Section 2-1113 of this Code,  
34 the affidavit ~~certificate~~ and written report must state that,  
35 in the opinion of the reviewing health professional, negligence  
36 has occurred in the course of medical treatment. The affiant

1 shall certify upon filing of the complaint that he is relying  
2 on the doctrine of "res ipsa loquitur".

3 (d) When the attorney intends to rely on the doctrine of  
4 failure to inform of the consequences of the procedure, the  
5 attorney shall certify upon the filing of the complaint that  
6 the reviewing health professional has, after reviewing the  
7 medical record and other relevant materials involved in the  
8 particular action, concluded that a reasonable health  
9 professional would have informed the patient of the  
10 consequences of the procedure.

11 (e) Allegations and denials in the affidavit, made without  
12 reasonable cause and found to be untrue, shall subject the  
13 party pleading them or his attorney, or both, to the payment of  
14 reasonable expenses, actually incurred by the other party by  
15 reason of the untrue pleading, together with reasonable  
16 attorneys' fees to be summarily taxed by the court upon motion  
17 made within 30 days of the judgment or dismissal. In no event  
18 shall the award for attorneys' fees and expenses exceed those  
19 actually paid by the moving party, including the insurer, if  
20 any. In proceedings under this paragraph (e), the moving party  
21 shall have the right to depose and examine any and all  
22 reviewing health professionals who prepared reports used in  
23 conjunction with an affidavit required by this Section.

24 (f) A reviewing health professional who in good faith  
25 prepares a report used in conjunction with an affidavit  
26 required by this Section shall have civil immunity from  
27 liability which otherwise might result from the preparation of  
28 such report.

29 (g) The failure of the plaintiff to file an affidavit and  
30 report in compliance with ~~to file a certificate required by~~  
31 this Section shall be grounds for dismissal under Section  
32 2-619.

33 (h) This Section does not apply to or affect any actions  
34 pending at the time of its effective date, but applies to cases  
35 filed on or after its effective date.

36 (i) This amendatory Act of 1997 does not apply to or

1 affect any actions pending at the time of its effective date,  
2 but applies to cases filed on or after its effective date.

3 (j) The changes to this Section made by this amendatory Act  
4 of the 94th General Assembly apply to causes of action accruing  
5 on or after its effective date.

6 (Source: P.A. 86-646; 90-579, eff. 5-1-98.)

7 (735 ILCS 5/2-1704.5 new)

8 Sec. 2-1704.5. Guaranteed payment of future medical  
9 expenses and costs of life care.

10 (a) At any time, but no later than 5 days after a verdict  
11 in the plaintiff's favor for a plaintiff's future medical  
12 expenses and costs of life care is reached, either party in a  
13 medical malpractice action may elect, or the court may enter an  
14 order, to have the payment of the plaintiff's future medical  
15 expenses and costs of life care made under this Section.

16 (b) In all cases in which a defendant in a medical  
17 malpractice action is found liable for the plaintiff's future  
18 medical expenses and costs of care, the trier of fact shall  
19 make the following findings based on evidence presented at  
20 trial:

21 (1) the present cash value of the plaintiff's future  
22 medical expenses and costs of life care;

23 (2) the current year annual cost of the plaintiff's  
24 future medical expenses and costs of life care; and

25 (3) the annual composite rate of inflation that should  
26 be applied to the costs specified in item (2).

27 Based upon evidence presented at trial, the trier of fact  
28 may also vary the amount of future costs under this Section  
29 from year to year to account for different annual expenditures,  
30 including the immediate medical and life care needs of the  
31 plaintiff. The jury shall not be informed of an election to pay  
32 for future medical expenses and costs of life care by  
33 purchasing an annuity.

34 (c) When an election is made to pay for future medical  
35 expenses and costs of life care by purchasing an annuity, the

1 court shall enter a judgment ordering that the defendant pay  
2 the plaintiff an amount equal to 20% of the present cash value  
3 of future medical expenses and cost of life care determined  
4 under subsection (b)(1) of this Section and ordering that the  
5 remaining future expenses and costs be paid by the purchase of  
6 an annuity by or on behalf of the defendant from a company that  
7 has itself, or is irrevocably supported financially by a  
8 company that has, at least 2 of the following 4 ratings: "A+ X"  
9 or higher from A.M. Best Company; "AA-" or higher from Standard  
10 & Poor's; "Aa3" or higher from Moody's; and "AA-" or higher  
11 from Fitch. The annuity must guarantee that the plaintiff will  
12 receive annual payments equal to 80% of the amount determined  
13 in subsection (b)(2) inflated by the rate determined in  
14 subsection (b)(3) for the life of the plaintiff.

15 (d) If the company providing the annuity becomes unable to  
16 pay amounts required by the annuity, the defendant shall secure  
17 a replacement annuity for the remainder of the plaintiff's life  
18 from a company that satisfies the requirements of subsection  
19 (c).

20 (e) A plaintiff receiving future payments by means of an  
21 annuity under this Section may seek leave of court to assign or  
22 otherwise transfer the right to receive such payments in  
23 exchange for a negotiated lump sum value of the remaining  
24 future payments or any portion of the remaining future payments  
25 under the annuity to address an unanticipated financial  
26 hardship under such terms as approved by the court.

27 (f) This Section applies to all causes of action accruing  
28 on or after the effective date of this amendatory Act of the  
29 94th General Assembly.

30 (735 ILCS 5/2-1706.5 new)

31 Sec. 2-1706.5. Standards for economic and non-economic  
32 damages.

33 (a) In any medical malpractice action or wrongful death  
34 action based on medical malpractice in which economic and  
35 non-economic damages may be awarded, the following standards

1 shall apply:

2 (1) In a case of an award against a hospital and its  
3 personnel or hospital affiliates, as defined in Section  
4 10.8 of the Hospital Licensing Act, the total amount of  
5 non-economic damages shall not exceed \$1,000,000 awarded  
6 to all plaintiffs in any civil action arising out of the  
7 care.

8 (2) In a case of an award against a physician and the  
9 physician's business or corporate entity and personnel or  
10 health care professional, the total amount of non-economic  
11 damages shall not exceed \$500,000 awarded to all plaintiffs  
12 in any civil action arising out of the care.

13 (3) In awarding damages in a medical malpractice case,  
14 the finder of fact shall render verdicts with a specific  
15 award of damages for economic loss, if any, and a specific  
16 award of damages for non-economic loss, if any.

17 The trier of fact shall not be informed of the provisions  
18 of items (1) and (2) of this subsection (a).

19 (b) In any medical malpractice action where an individual  
20 plaintiff earns less than the annual average weekly wage, as  
21 determined by the Illinois Workers' Compensation Commission,  
22 at the time the action is filed, any award may include an  
23 amount equal to the wage the individual plaintiff earns or the  
24 annual average weekly wage.

25 (c) This Section applies to all causes of action accruing  
26 on or after the effective date of this amendatory Act of the  
27 94th General Assembly.

28 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

29 Sec. 8-1901. Admission of liability - Effect.

30 (a) The providing of, or payment for, medical, surgical,  
31 hospital, or rehabilitation services, facilities, or equipment  
32 by or on behalf of any person, or the offer to provide, or pay  
33 for, any one or more of the foregoing, shall not be construed  
34 as an admission of any liability by such person or persons.  
35 Testimony, writings, records, reports or information with

1 respect to the foregoing shall not be admissible in evidence as  
2 an admission of any liability in any action of any kind in any  
3 court or before any commission, administrative agency, or other  
4 tribunal in this State, except at the instance of the person or  
5 persons so making any such provision, payment or offer.

6 (b) Any expression of grief, apology, or explanation  
7 provided by a health care provider, including, but not limited  
8 to, a statement that the health care provider is "sorry" for  
9 the outcome to a patient, the patient's family, or the  
10 patient's legal representative about an inadequate or  
11 unanticipated treatment or care outcome that is provided within  
12 72 hours of when the provider knew or should have known of the  
13 potential cause of such outcome shall not be admissible as  
14 evidence in any action of any kind in any court or before any  
15 tribunal, board, agency, or person. The disclosure of any such  
16 information, whether proper, or improper, shall not waive or  
17 have any effect upon its confidentiality or inadmissibility. As  
18 used in this Section, a "health care provider" is any hospital,  
19 nursing home or other facility, or employee or agent thereof, a  
20 physician, or other licensed health care professional. Nothing  
21 in this Section precludes the discovery or admissibility of any  
22 other facts regarding the patient's treatment or outcome as  
23 otherwise permitted by law.

24 (c) The changes to this Section made by this amendatory Act  
25 of the 94th General Assembly apply to causes of action accruing  
26 on or after its effective date.

27 (Source: P.A. 82-280.)

28 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

29 (Text of Section WITHOUT the changes made by P.A. 89-7,  
30 which has been held unconstitutional)

31 Sec. 8-2501. Expert Witness Standards. In any case in which  
32 the standard of care applicable to ~~given by~~ a medical  
33 professional ~~profession~~ is at issue, the court shall apply the  
34 following standards to determine if a witness qualifies as an  
35 expert witness and can testify on the issue of the appropriate

1 standard of care.

2 (a) Whether the witness is board certified or board  
3 eligible, or has completed a residency, in the same or  
4 substantially similar medical specialties as the defendant and  
5 is otherwise qualified by significant experience with the  
6 standard of care, methods, procedures, and treatments relevant  
7 to the allegations against the defendant ~~Relationship of the~~  
8 ~~medical specialties of the witness to the medical problem or~~  
9 ~~problems and the type of treatment administered in the case;~~

10 (b) Whether the witness has devoted a majority ~~substantial~~  
11 ~~portion~~ of his or her work time to the practice of medicine,  
12 teaching or University based research in relation to the  
13 medical care and type of treatment at issue which gave rise to  
14 the medical problem of which the plaintiff complains;

15 (c) whether the witness is licensed in the same profession  
16 with the same class of license as the defendant if the  
17 defendant is an individual; and

18 (d) whether, in the case against a nonspecialist, the  
19 witness can demonstrate a sufficient familiarity with the  
20 standard of care practiced in this State.

21 An expert shall provide evidence of active practice,  
22 teaching, or engaging in university-based research. If  
23 retired, an expert must provide evidence of attendance and  
24 completion of continuing education courses for 3 years previous  
25 to giving testimony. An expert who has not actively practiced,  
26 taught, or been engaged in university-based research, or any  
27 combination thereof, during the preceding 5 years may not be  
28 qualified as an expert witness.

29 The changes to this Section made by this amendatory Act of  
30 the 94th General Assembly apply to causes of action accruing on  
31 or after its effective date.

32 (Source: P.A. 84-7.)

33 Section 340. The Good Samaritan Act is amended by changing  
34 Section 30 as follows:

1 (745 ILCS 49/30)

2 Sec. 30. Free medical clinic; exemption from civil  
3 liability for services performed without compensation.

4 (a) A person licensed under the Medical Practice Act of  
5 1987, a person licensed to practice the treatment of human  
6 ailments in any other state or territory of the United States,  
7 or a health care professional, including but not limited to an  
8 advanced practice nurse, retired physician, physician  
9 assistant, nurse, pharmacist, physical therapist, podiatrist,  
10 or social worker licensed in this State or any other state or  
11 territory of the United States, who, in good faith, provides  
12 medical treatment, diagnosis, or advice as a part of the  
13 services of an established free medical clinic providing care,  
14 including but not limited to home visits, without charge to  
15 ~~medically indigent~~ patients which is limited to care that does  
16 not require the services of a licensed hospital or ambulatory  
17 surgical treatment center and who receives no fee or  
18 compensation from that source shall not be liable for civil  
19 damages as a result of his or her acts or omissions in  
20 providing that medical treatment, except for willful or wanton  
21 misconduct.

22 (b) For purposes of this Section, a "free medical clinic"  
23 is an organized community based program providing medical care  
24 without charge to individuals ~~unable to pay for it~~, at which  
25 the care provided does not include ~~the use of general~~  
26 ~~anesthesia or require~~ an overnight stay in a health-care  
27 facility.

28 (c) The provisions of subsection (a) of this Section do not  
29 apply to a particular case unless the free medical clinic has  
30 posted in a conspicuous place on its premises an explanation of  
31 the exemption from civil liability provided herein.

32 (d) The immunity from civil damages provided under  
33 subsection (a) also applies to physicians, retired physicians,  
34 hospitals, and other health care providers that provide further  
35 medical treatment, diagnosis, or advice, including but not  
36 limited to hospitalization, office visits, and home visits, to

1 a patient upon referral from an established free medical clinic  
2 without fee or compensation.

3 (d-5) A free medical clinic may receive reimbursement from  
4 the Illinois Department of Public Aid, provided any  
5 reimbursements shall be used only to pay overhead expenses of  
6 operating the free medical clinic and may not be used, in whole  
7 or in part, to provide a fee or other compensation to any  
8 person licensed under the Medical Practice Act of 1987 or any  
9 other health care professional who is receiving an exemption  
10 under this Section. Any health care professional receiving an  
11 exemption under this Section may not receive any fee or other  
12 compensation in connection with any services provided to, or  
13 any ownership interest in, the clinic. Medical care shall not  
14 include an overnight stay in a health care facility.

15 (e) Nothing in this Section prohibits a free medical clinic  
16 from accepting voluntary contributions for medical services  
17 provided to a patient who has acknowledged his or her ability  
18 and willingness to pay a portion of the value of the medical  
19 services provided.

20 (f) Any voluntary contribution collected for providing  
21 care at a free medical clinic shall be used only to pay  
22 overhead expenses of operating the clinic. No portion of any  
23 moneys collected shall be used to provide a fee or other  
24 compensation to any person licensed under Medical Practice Act  
25 of 1987.

26 (g) The changes to this Section made by this amendatory Act  
27 of the 94th General Assembly apply to causes of action accruing  
28 on or after its effective date.

29 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

30 ARTICLE 4. SORRY WORKS! PILOT PROGRAM ACT

31 Section 401. Short title. This Article 4 may be cited as  
32 the Sorry Works! Pilot Program Act, and references in this  
33 Article to "this Act" mean this Article.

1           Section 405. Sorry Works! pilot program. The Sorry Works!  
2 pilot program is established. During the first year of the  
3 program's operation, participation in the program shall be open  
4 to one hospital. Hospitals may participate only with the  
5 approval of the hospital administration and the hospital's  
6 organized medical staff. During the second year of the  
7 program's operation, participation in the program shall be open  
8 to one additional hospital.

9           The first participating hospital selected by the committee  
10 established under Section 410 shall be located in a county with  
11 a population greater than 200,000 that is contiguous with the  
12 Mississippi River.

13           Under the program, participating hospitals and physicians  
14 shall promptly acknowledge and apologize for mistakes in  
15 patient care and promptly offer fair settlements.  
16 Participating hospitals shall encourage patients and families  
17 to retain their own legal counsel to ensure that their rights  
18 are protected and to help facilitate negotiations for fair  
19 settlements. Participating hospitals shall report to the  
20 committee their total costs for healing art malpractice  
21 verdicts, settlements, and defense litigation for the  
22 preceding 5 years to enable the committee to determine average  
23 costs for that hospital during that period. The committee shall  
24 develop standards and protocols to compare costs for cases  
25 handled by traditional means and cases handled under the Sorry  
26 Works! protocol.

27           If the committee determines that the total costs of cases  
28 handled under the Sorry Works! protocol by a hospital  
29 participating in the program exceed the total costs that would  
30 have been incurred if the cases had been handled by traditional  
31 means, the hospital may apply for a grant from the Sorry Works!  
32 Fund, a special fund that is created in the State Treasury, for  
33 an amount, as determined by the committee, by which the total  
34 costs exceed the total costs that would have been incurred if  
35 the cases had been handled by traditional means; however, the  
36 total of all grants from the Fund for cases in any single

1 participating hospital in any year may not exceed the amount in  
2 the Fund or \$2,000,000, whichever is less. All grants shall be  
3 subject to appropriation. Moneys in the Fund shall consist of  
4 funds transferred into the Fund or otherwise made available  
5 from any source.

6 Section 410. Establishment of committee.

7 (a) A committee is established to develop, oversee, and  
8 implement the Sorry Works! pilot program. The committee shall  
9 have 9 members, each of whom shall be a voting member. Six  
10 members of the committee shall constitute a quorum. The  
11 committee shall be comprised as follows:

12 (1) The President of the Senate, the Minority Leader of  
13 the Senate, the Speaker of the House of Representatives,  
14 and the Minority Leader of the House of Representatives  
15 shall each appoint 2 members.

16 (2) The Secretary of Financial and Professional  
17 Regulation or his or her designee.

18 (b) The committee shall establish criteria for the program,  
19 including but not limited to: selection of hospitals,  
20 physicians, and insurers to participate in the program; and  
21 creation of a subcommittee to review cases from hospitals and  
22 determine whether hospitals, physicians, and insurers are  
23 entitled to compensation under the program.

24 (c) The committee shall communicate with hospitals,  
25 physicians, and insurers that are interested in participating  
26 in the program. The committee shall make final decisions as to  
27 which applicants are accepted for the program.

28 (d) The committee shall report to the Governor and the  
29 General Assembly annually.

30 (e) The committee shall publish data regarding the program.

31 (f) Committee members shall receive no compensation for the  
32 performance of their duties as members, but each member shall  
33 be paid necessary expenses while engaged in the performance of  
34 those duties.

1 Section 415. Termination of program.

2 (a) The program may be terminated at any time if the  
3 committee, by a vote of two-thirds of its members, votes to  
4 terminate the program.

5 (b) If the program is not terminated under subsection (a),  
6 the program shall terminate after its second year of operation.

7 Section 495. The State Finance Act is amended by adding  
8 Section 5.640 as follows:

9 (30 ILCS 105/5.640 new)

10 Sec. 5.640. The Sorry Works! Fund.

11 ARTICLE 9. MISCELLANEOUS

12 Section 995. Inseverability. The provisions of this Act are  
13 mutually dependent and inseverable. If any provision is held  
14 invalid, then this entire Act, including all new and amendatory  
15 provisions, is invalid.

16 Section 999. Effective date. This Act takes effect upon  
17 becoming law.